



Petition Number: 1606-VS-11

Subject Site Address: 18957 Mule Barn Road

Petitioner: Jess and Courtney McKinney

Request: The Petitioner is requesting a Variance of Standard to reduce the side and rear yard minimum setback lines to allow for the construction of a detached garage (Article 6.1(D)(b)) in the AG-SF1: Agriculture/Single Family Rural District.

Current Zoning: AG-SF1: Agriculture/Single Family Rural District

Current Land Use: Residential

Approximate Acreage: 3.4 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Existing Conditions
6. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

OVERVIEW

Location: The subject property is 3.4 acres +/- in size and located at 18957 Mule Barn Road (see **Exhibit 2**). The property is improved with a single family dwelling constructed in 2015¹. The property is zoned AG-SF1: Agriculture/Single Family Rural District ("AG-SF1"). Adjacent properties are also zoned AG-SF1.

Variance Request: The petitioner is requesting a variance of development standard to reduce the Minimum Building Setback Line² for Side³ and Rear⁴ Yard to allow for the construction of a detached garage as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Elevations Exhibit (see **Exhibit 4**).

¹ Improvement Location Permit No. 15-RSFR-011-014

² Chapter 12 of the UDO defines "Building Setback Line" as "[a] line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line."

³ Chapter 12 of the UDO defines "Yard, Side" as "[a] Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

⁴ Chapter 12 of the UDO defines "Yard, Rear" as "[a] Yard extending across the full width of the Lot, the depth of which is the least distance between the Rear Lot Line and the Rear Yard Building Setback Line."

VARIANCE REQUEST

The proposed detached garage is an Accessory Building⁵. Accessory Buildings are subject to Article 6.1 Accessory Use and Building Standards of the UDO.

Article 6.1(D)(2)(b) Accessory Use and Building Standards; Building Location; Lots Not in Subdivisions; Side and Rear Setbacks states that “Accessory Buildings shall meet the minimum Side and Rear Yard Building Setback Lines of the underlying Zoning District, except as otherwise established by this Article.”

Article 4.2(E)(2) AG-SG1 District; Minimum Building Setback Line; Side and Rear Yard establishes a Side and Rear Yard Building Setback Line of thirty (30) feet for underlying AG-SF1.

The request is to reduce the setback to fifteen (15) feet from the north (side) and east (rear) Lot Lines, as depicted on the Site Plan Exhibit. The proposed detached garage has been designed to match the architecture of the existing home, as illustrated in the Elevations Exhibit, and otherwise complies with the applicable standards.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 14, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO⁶ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

⁵ Chapter 12 of the UDO defines “Building, Accessory” as “[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.

⁶ Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁷ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

Recommended Findings for Approval:

If the Board is inclined to approve the variance, then the Department recommends the following findings:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements would otherwise comply with the applicable standards of the AG-SF1 District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding

⁷ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



properties because: (i) the proposed improvements enhance the value of the subject property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.